

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In re

Review of the Prime Time Access Rule,  
Section 73.658(k)  
of the Commission's Rules

MM Docket No. 94-123

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**COMMENTS OF FRIENDS OF PRIME TIME ACCESS**

The parties listed below are independent producers and syndicators of first-run television programming. We represent a cross-section of enterprises spanning the nation's creative communities. All depend upon the Prime Time Access Rule for the opportunity to compete for programming slots on one hour of prime time each evening on network-affiliated television stations.

The Rule is needed now more than ever, because the Financial Interest and Syndication Rules are being phased out. Therefore, the networks are taking a financial interest in an increasing percentage of the programs they broadcast and are escalating their own in-house production. Without the Access Rule, the networks' owned-and-operated stations, located in the nation's most significant television markets, can be expected to carry the networks' own shows, either off-network or original production.

Without access to those major markets, an independent producer will find it increasingly difficult, if not impossible, to launch a syndicated program. If the PTAR is eliminated or eviscerated, the networks will extend their reach and their dominance into this hour and will be able to exercise control over virtually the entire broadcast day.

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Actually, we are also threatened in a second way. If the Rule is changed, new off-network programs would go into Access time across all markets, including the below-top-50 markets that are not now covered by the PTAR. These shows would bump established first-run or older off-network programs out of those lower market Access slots and into other time periods, displacing independent first-run programming.

The results in both prime time and non-prime time markets would be reduced competition and diversity.

To alter or remove the Rule now, in the face of the dramatic change coming up the marketplace through removal of the Fin-Syn Rules, simply would not make sense. The Commission should defer any decision on the PTAR until after we all can see what marketplace changes have come from the removal of the FISR.

The PTAR has benefited not only the relatively small number of companies who today successfully provide programs to network affiliates during Access time. The Rule is equally important to all other program producers who aspire to place a show in Access time. They know that no program, however popular today, will last forever. Over the years, dozens of first-run shows have come -- and gone -- from that time period. The Rule allows all of us to know that, given the ebbs and flows of the popularity of syndicated programming, we too will have the opportunity to prosper there in the future.

Of course, cable television has arrived and offered new avenues of program distribution since the PTAR was adopted in 1970. However, 40 percent of the country does not subscribe to cable. Network broadcasting still commands by far the largest audience and provides the greatest revenues needed by independent producers to become and remain viable in the business of creating new and diverse programming.

Prime time is the shinning goal for creative, ambitious producers. We cannot imagine that the Commission would act in such a way as to foster two classes of programmer: One class for the dominant players, the networks (whose revenues for the past year were reported to have exceeded \$9 billion), to compete in the top marketplace, prime time, and the other class of lesser marketplaces for independent producers.

Although most of us are small, our contributions to viewers' choices are not. We produce and distribute programming dealing with health and women's and children's and racial issues, along with broad-based entertainment and information subjects.

Our programs, over the years, have appeared in various time periods on affiliated and independent television stations. Some of our programs have found their way onto network affiliates in Access time, thanks in no small part to the PTAR which allowed us an opportunity to compete. When we have had programs in the Access hour, that success has enabled us to grow and to offer other shows for other time periods.

In the course of this proceeding, the Commission will undoubtedly receive hundreds of pages of legal briefs and complex economic analyses designed to support one position or another. However, some benefits, including the expansion of viewer choice, are difficult to measure or quantify in a regression analysis, but they are, nonetheless, very real.

What we do know is that we are here, producing and aspiring to future success in even the biggest, most rewarding marketplace of all, because the PTAR encouraged us to enter the forum of ideas and entertainment and information . . . and thereby to contribute to the variety of choices offered to stations and, most importantly, to viewers.

We also know that before the PTAR, there were few of us. Now there are hundreds.

The PTAR opened the door. We implore the Commission not to close it. Don't turn back the clock to the darker days of the pre-PTAR period when there was virtually no room in the prime time universe for independent producers of syndicated first-run programs.

Respectfully submitted

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ACI  
All American Television Distribution  
Bohbot Communications, Inc.  
Bonny Dore Productions  
Central City Productions, Inc.  
Claster Television Incorporated  
Dick Clark Productions, Inc.  
FilmRoos  
Lee Miller Productions  
Loreen Arbus Productions, Inc.  
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